IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

Bail Appl..No. 7669 of 2007

(CRIME NO. 51/2007 OF PUNALUR POLICE STATION)
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PETITIONERS/ACCUSED:
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1. **BIJU,S/O. GEORGE,ANI BHAVAN,**
   KUTHIRACHIRA, PUNALUR P.O., PUNALUR.

2. **ANI, S/O. GEORGE,ANI BHAVAN,**
   KUTHIRACHIRA, PUNALUR P.O., PUNALUR.

3. **SIMON, S/O. KARMALI,**
   MUKALUVILA VEEDU, KOCHUVATTOMON,
   MATHRA P.O., PUNALUR.

4. **ANI, S/O.THAMPI, ANI BHAVAN**
   KOCHUVATTOMON, MATHRA P.O., PUNALUR.

BY ADV. SRI.ALEXANDER GEORGE.

RESPONDENTS/ COMPLAINANT:
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1. **STATE OF KERALA, REPRESENTED BY ITS**
   DIRECTOR OF PUBLIC PROSECUTION,
   HIGH COURT OF KERALA, ERNAKULAM.

2. **THE SUB INSPECTOR OF POLICE,**
   PUNALUR POLICE STATION,
   KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7669 of 2007

Dated this the 13th day of December 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,2,6 and 8. Altogether there are eight accused persons. They face allegations for the offence punishable under Section 326 read with 149 I.P.C which is the only non-bailable offence. The alleged incident took place on 28/1/2007. Investigation is now complete. Final report has already been filed. Cognizance has been taken by the learned Judicial First Class Magistrate Court-III, Punalur. C.C.No.1388/2007 is pending. The petitioners have not been arrested. They apprehend arrest now.

2. The learned Public Prosecutor submits that the final report having been filed and offence being one triable by the first class Magistrate, the petitioners may be directed to appear before the learned Magistrate and seek regular bail. There are no circumstances justifying the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

3. I find merit in the submission of the learned Public Prosecutor. I am satisfied that It is for the petitioner to appear before the learned Magistrate and seek regular bail. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007